

REMARKS

At the outset, the Examiner is thanked for the thorough review and consideration of the pending application. The Final Office Action dated October 10, 2008 has been received and its contents carefully reviewed.

Claim 1 is hereby amended. Claim 12 is canceled without prejudice or disclaimer. No new matter has been added. Accordingly, claims 1-11 and 13-17 are currently pending. Reexamination and reconsideration of the pending claims are respectfully requested.

The Office Action rejects claims 1-17 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,561,200 to Fournel et al. (*Fournel*). Claim 12 is canceled, so the rejection of claim 12 is moot. Applicants respectfully traverse the rejection of claims 1-11 and 13-17.

As required in M.P.E.P. § 2131, in order to anticipate a claim under 35 U.S.C. § 102, “the reference must teach every element of the claim.” *Fournel* does not teach every element of claims 1-11 and 13-17, and thus cannot anticipate these claims.

Claim 1 recites, “from 0.1 to 1.5% by weight of a gelling agent, wherein the gelling agent is an organic thickening agent exhibiting a rheological behaviour of pseudoplastic type.” *Fournel* fails to teach at least this element of claim 1. The Office Action states that “[b]oth a viscosing agent and a gelling agent will act to increase the viscosity of the composition and would inherently provide the same action upon the foam.” *Office Action*, page 2. Applicants respectfully disagree. The gelling agent of claim 1 is “an organic thickening agent exhibiting a rheological behaviour of pseudoplastic type.” *Fournel* discloses that “a viscosing compound is preferably added to the liquid phase such as polyethylene glycol with an average molecular of 6000.” *Fournel*, column 3, lines 34-37. The organic thickening agent exhibiting a rheological behaviour of pseudoplastic type of claim 1 is different from the viscosing compound of *Fournel*.

In addition, according to the Specification, “[t]he foams generated from the composition of the present invention thus comprises a gelling agent [and] unexpectedly, the lifetime of this foam is greatly increased.” *Specification*, page 3, lines 2-4, emphasis added. In *Fournel*, it is the contents of surfactant, stabilizing, and destabilising agents, not the viscosing

compound, that affect the lifetime of the foam. *Fournel*, column 3, lines 67 to column 4, line 6. The Office Action's assertion that the viscosing agent and the gelling agent "provide the same action upon the form" is without support and, therefore, incorrect.

Accordingly, claim 1 is allowable over *Fournel*. Claims 2-11 and 13-17 variously depend from claim 1, and are also allowable over *Fournel* for at least the same reasons as claim 1.

Furthermore, dependent claim 13 recites, "the gelling agent is chosen from the group consisting of a water-soluble polymer, a hydrocolloid and a heteropolysaccharide or from the group consisting of cellulose derivatives," and dependent claim 14 recites, "the gelling agent is chosen from the group consisting of heteropolysaccharides chosen from the family of the polyglucoside polymers comprising trisaccharide branched chains; and cellulose derivatives, such as carboxymethylcellulose or a polysaccharide comprising glucose as sole monomer." *Fournel* also fails to teach at least these elements of claims 13 and 14. In fact, the Office Action did not even address claims 13 and 14 at all. Therefore, claims 13 and 14 are also allowable for these additional reasons.

Applicants, therefore, respectfully request withdrawal of the rejection of claims 1-17.

The Office Action rejects claims 1-17 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,817,186 to D'Muhala et al. (*D'Muhala*). Claim 12 is canceled, so the rejection of claim 12 is moot. Applicants respectfully traverse the rejection of claims 1-11 and 13-17.

Claim 1 recites, "from 0.1 to 1.5% by weight of a gelling agent, wherein the gelling agent is an organic thickening agent exhibiting a rheological behaviour of pseudoplastic type." *D'Muhala* fails to teach at least this element of claim 1. Instead, *D'Muhala* discloses that "such compounds could be ... gelled onto the surface using an appropriate gelling agent." *D'Muhala*, column 5, lines 2-6. *D'Muhala* does not disclose what the appropriate gelling agent is and the concentration of the appropriate gelling agent, so, without more, the appropriate gelling agent cannot anticipate the above-recited element of claim 1. Accordingly, claim 1 is allowable over

D'Muhala. Claims 2-11 and 13-17 variously depend from claim 1, and are also allowable over *D'Muhala* for at least the same reasons as claim 1.

Furthermore, *D'Muhala* also fails to teach at least the above-recited elements of claims 13 and 14. In fact, the Office Action did not even address claims 13 and 14 at all. Therefore, claims 13 and 14 are also allowable for these additional reasons.

Applicants, therefore, respectfully request withdrawal of the rejection of claims 1-17.

The Office Action rejects claims 1-17 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,093,073 to Schenker (*Schenker*). Claim 12 is canceled, so the rejection of claim 12 is moot. Applicants respectfully traverse the rejection of claims 1-11 and 13-17.

Claim 1 recites, "from 0.1 to 1.5% by weight of a gelling agent, wherein the gelling agent is an organic thickening agent exhibiting a rheological behaviour of pseudoplastic type." *D'Muhala* fails to teach at least this element of claim 1. Instead, *Schenker* discloses that "a thickener can also be added to the solution which can be applied as a coating directly to the surface layers which are to be treated." *Schenker*, column 3, lines 59-62. *Schenker* does not disclose what the thickener is and the concentration of the thickener, so, without more, the thickener cannot anticipate the above-recited element of claim 1. Accordingly, claim 1 is allowable over *Schenker*. Claims 2-11 and 13-17 variously depend from claim 1, and are also allowable over *Schenker* for at least the same reasons as claim 1.

Furthermore, *Schenker* also fails to teach at least the above-recited elements of claims 13 and 14. In fact, the Office Action did not even address claims 13 and 14 at all. Therefore, claims 13 and 14 are also allowable for these additional reasons.

Applicants therefore respectfully request withdrawal of the rejection of claims 1-17.

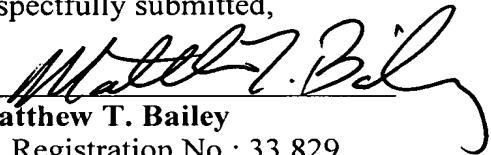
The application is in condition for allowance. Early and favorable action is respectfully solicited. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-

7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: April 9, 2009

Respectfully submitted,

By 
Matthew T. Bailey

Registration No.: 33,829
McKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, DC 20006
(202) 496-7500
Attorneys for Applicant